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May 3, 2005

The Honorable F. James Sensenbrenner, Jr.
Chairman
Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn HOB
Washington, DC 20515

Dear Mr. Chairman:

I am writing to request that the Committee on the Judiciary hold hearings on the state of competition in the financial market industry. Financial markets have seen a wave of consolidation since the 1990s, a wave that has recently begun to accelerate. Because of the importance of these issues to consumers and our economy—the financial markets consist of the trading of trillions of dollars of stocks every day—I believe the Committee should exercise its antitrust oversight jurisdiction to examine these market trends and their impact.

There are a number of important recent developments. Most recently, the 213-year old New York Stock Exchange (NYSE), the world's largest stock market, announced its intention to merge with Archipelago Holdings,¹ an electronic trading system. In response, Kenneth Langone, founder of Home Depot and a former director of the NYSE, announced that he would attempt to organize other Wall Street firms to mount a rival bid. Also recently announced is the potential merger of Nasdaq, the world's largest electronic exchange, and Instinet Group, the last major operator of an electronic trading system. If these two transactions are approved, Wall Street will go from four major competitors to two. In the words of Floyd Norris of the *New York Times*, "we may be on the verge of getting one [market system], with stock market competition in America first intensifying and then producing an oligopoly."²

¹See Landon Thomas Jr. and Jenny Anderson, *Big Board Deal Stirs Up the Rivalries*, N.Y. TIMES, Apr. 26, 2005 at C1.

²Floyd Norris, *After Markets' Merger Mania, Is Oligopoly Next?*, N.Y. TIMES, Apr. 22, 2005 at C1.

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The consolidation trend—both in the U.S. and worldwide—appears in part related to the fact that many formerly private-owned exchanges are becoming publicly held. In addition, since volume is critical to making low-margin trading competitive, exchanges are now wanting to deal in derivatives and options as well. In the United States, consolidation may have also been spurred by new Securities and Exchange Commission rules governing markets, requiring that the market posting the best price for a stock be the market that gets the trade. The new rules also allow small automated markets to compete with the mammoth markets.

There are a number of important issues that this wave of consolidation raises. Among other things, I believe that because there are already so few players in the financial market industry, it is important to make sure that cost-savings from the mergers are passed on to consumers and that they promote cross-territory competition so that prices remain low and innovation takes place.

Thank you for your consideration of this request.

Sincerely,



John Conyers, Jr.
Ranking Member